

AMENDED IN SENATE JULY 15, 1996

AMENDED IN SENATE JULY 7, 1996

AMENDED IN ASSEMBLY MAY 24, 1996

AMENDED IN ASSEMBLY APRIL 29, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 3130**

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**Introduced by Assembly Member Boland**

February 23, 1996

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An act to amend Sections 1600, 1618, and 3000 of the Penal Code, and to amend Sections 6600, 6601, ~~6601.5, 6602, and 6604~~ *and 6601.5* of, and to add Sections 6609, 6609.1, 6609.2, and 6609.3 to, the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 3130, as amended, Boland. Sexually violent predators.

(1) Under existing law, any person committed to a state hospital pursuant to a plea of not guilty by reason of insanity is authorized to be placed on outpatient status.

This bill would authorize a person committed as a sexually violent predator to be placed on outpatient status.

(2) Existing law provides a waiver of civil and criminal liability to administrators and staff of the Forensic Conditional Release Program and to employees of the State Department of Mental Health for any criminal acts committed by persons

on parole or judicial commitment status who receive supervision or treatment.

This bill would extend that waiver of liability to the Board of Prison Terms for persons who are considered for placement under a hold by the board.

The bill also would provide that any finding that a person is a sexually violent predator shall not toll, discharge, or otherwise affect that person's period of parole.

(3) Existing law provides for the civil commitment of sexually violent predators. A sexually violent predator is defined as a person who has been convicted of a sexually violent offense against 2 or more victims for which he or she received a determinate prison sentence and who has a diagnosed mental disorder that makes the person a danger to the health or safety of others.

This bill would revise the definition of a sexually violent offense for purposes of this definition of sexually violent predator.

Existing law defines "predatory," for purposes of the provisions governing sexually violent predators, as an act directed toward a stranger or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

This bill would add to that definition an act directed at a person of casual acquaintance with whom no substantial relationship exists.

(4) Under existing law, when the Director of Corrections determines that an individual who is in custody under the jurisdiction of the Department of Corrections, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the director is required, at least 6 months prior to the individual's scheduled release date, to refer the person for an evaluation by the State Department of Mental Health.

This bill would authorize the Director of Corrections to refer a person for this evaluation at a time less than 6 months prior to the release date if the inmate was received with less than 9 months to serve or if the release date is modified by judicial or administrative action.



(5) Existing law provides for a hearing procedure to determine whether there is probable cause to believe that a person who is the subject of a petition for civil commitment as a sexually violent predator is likely to engage in sexually violent predatory criminal behavior upon his or her release from prison.

This bill would provide that, if an inmate's parole or temporary parole hold will expire before a probable cause hearing is conducted, the agency bringing the petition may request an urgency review.

~~This bill would require the facial validity of the petition to be reviewed at the probable cause hearing.~~

~~(6) Under existing law, if a court or jury determines that a person is a sexually violent predator, the person is required to be placed in a secure facility designated by the Director of Mental Health, which facility is required to be located on the grounds of an institution under the jurisdiction of the Department of Corrections.~~

~~This bill would eliminate the requirement that the facility be located on the grounds of an institution under the jurisdiction of the department.~~

~~(7)~~

(6) Under existing law, whenever any inmate in a state prison who is serving a term for committing a violent felony, the paroling authority is required to notify the sheriff or the chief of police, or both, and the district attorney who has jurisdiction over the community into which the person is scheduled to be released. The notice is required to be given 15 days prior to release, or, if release is to a county other than where he or she was committed, at least 45 days prior to the release. Those agencies have 15 days from receipt of notice to provide written comment to the department regarding the impending release. Those time limits are not applicable where the release date is advanced by a judicial or administrative procedure.

Existing law also requires the sheriff or chief of police to notify certain persons, including victims and witnesses, and authorizes notice to any other appropriate person, upon the pending release of a violent felon.

This bill would make all these provisions applicable to any person who was committed as a sexually violent predator, and would require the State Department of Mental Health to provide certain identifying information concerning sexually violent predators to local law enforcement agencies, upon request. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

~~(8)~~

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(9)~~

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1600 of the Penal Code is  
 2 amended to read:  
 3 1600. Any person committed to a state hospital or  
 4 other treatment facility under the provisions of Section  
 5 1026, or Chapter 6 (commencing with Section 1367) of  
 6 Title 10 of this code, or Section 6316 or 6321 of the Welfare  
 7 and Institutions Code may be placed on outpatient status  
 8 from that commitment subject to the procedures and  
 9 provisions of this title, except that a developmentally  
 10 disabled person may be placed on outpatient status from  
 11 that commitment under the provisions of this title as

1 modified by Section 1370.4. Any person committed as a  
2 sexually violent predator under the provisions of Article  
3 4 (commencing with Section 6600) of Chapter 2 of Part  
4 2 of Division 6 of the Welfare and Institutions Code may  
5 be placed on outpatient status from that commitment in  
6 accordance with the procedures described in Title 15  
7 (commencing with Section 1600) of Part 2 of the Penal  
8 Code.

9 SEC. 2. Section 1618 of the Penal Code is amended to  
10 read:

11 1618. The administrators and the supervision and  
12 treatment staff of the Forensic Conditional Release  
13 Program shall not be held criminally or civilly liable for  
14 any criminal acts committed by the persons on parole or  
15 judicial commitment status who receive supervision or  
16 treatment. This waiver of liability shall apply to  
17 employees of the State Department of Mental Health, the  
18 Board of Prison Terms, and the agencies or persons under  
19 contract to those agencies, who provide screening,  
20 clinical evaluation, supervision, or treatment to mentally  
21 ill parolees or persons under judicial commitment or  
22 considered for placement under a hold by the Board of  
23 Prison Terms.

24 SEC. 3. Section 3000 of the Penal Code is amended to  
25 read:

26 3000. (a) (1) The Legislature finds and declares that  
27 the period immediately following incarceration is critical  
28 to successful reintegration of the offender into society and  
29 to positive citizenship. It is in the interest of public safety  
30 for the state to provide for the supervision of and  
31 surveillance of parolees, including the judicious use of  
32 revocation actions, and to provide educational,  
33 vocational, family and personal counseling necessary to  
34 assist parolees in the transition between imprisonment  
35 and discharge. A sentence pursuant to Section 1168 or  
36 1170 shall include a period of parole, unless waived, as  
37 provided in this section.

38 (2) The Legislature finds and declares that it is not the  
39 intent of this section to diminish resources allocated to the  
40 Department of Corrections for parole functions for which

1 the department is responsible. It is also not the intent of  
2 this section to diminish the resources allocated to the  
3 Board of Prison Terms to execute its duties with respect  
4 to parole functions for which the board is responsible.

5 (3) The Legislature finds and declares that diligent  
6 effort must be made to ensure that parolees are held  
7 accountable for their criminal behavior, including, but  
8 not limited to, the satisfaction of restitution fines and  
9 orders.

10 (4) Any finding made pursuant to Article 4  
11 (commencing with Section 6600) of Chapter 2 of Part 2  
12 of Division 6 of the Welfare and Institutions Code, that a  
13 person is a sexually violent predator shall not toll,  
14 discharge, or otherwise affect that person's period of  
15 parole.

16 (b) Notwithstanding any provision to the contrary in  
17 Article 3 (commencing with Section 3040) of this chapter,  
18 the following shall apply:

19 (1) At the expiration of a term of imprisonment of one  
20 year and one day, or a term of imprisonment imposed  
21 pursuant to Section 1170 or at the expiration of a term  
22 reduced pursuant to Section 2931, if applicable, the  
23 inmate shall be released on parole for a period not  
24 exceeding three years, unless the parole authority for  
25 good cause waives parole and discharges the inmate from  
26 custody of the department.

27 (2) In the case of any inmate sentenced under Section  
28 1168, the period of parole shall not exceed five years in the  
29 case of an inmate imprisoned for any offense other than  
30 first or second degree murder for which the inmate has  
31 received a life sentence, and shall not exceed three years  
32 in the case of any other inmate, unless in either case the  
33 parole authority for good cause waives parole and  
34 discharges the inmate from custody of the department.  
35 This subdivision shall be also applicable to inmates who  
36 committed crimes prior to July 1, 1977, to the extent  
37 specified in Section 1170.2.

38 (3) The parole authority shall consider the request of  
39 any inmate regarding the length of his or her parole and  
40 the conditions thereof.

1 (4) Upon successful completion of parole, or at the end  
2 of the maximum statutory period of parole specified for  
3 the inmate under paragraph (1) or (2), as the case may  
4 be, whichever is earlier, the inmate shall be discharged  
5 from custody. The date of the maximum statutory period  
6 of parole under this subdivision and paragraphs (1) and  
7 (2) shall be computed from the date of initial parole and  
8 shall be a period chronologically determined. Time  
9 during which parole is suspended because the prisoner  
10 has absconded or has been returned to custody as a parole  
11 violator shall not be credited toward any period of parole  
12 unless the prisoner is found not guilty of the parole  
13 violation. However, in no case, except as provided in  
14 Section 3064, may a prisoner subject to three years on  
15 parole be retained under parole supervision or in custody  
16 for a period longer than four years from the date of his or  
17 her initial parole, and, except as provided in Section 3064,  
18 in no case may a prisoner subject to five years on parole  
19 be retained under parole supervision or in custody for a  
20 period longer than seven years from the date of his or her  
21 initial parole.

22 (5) The Department of Corrections shall meet with  
23 each inmate at least 30 days prior to his or her good time  
24 release date and shall provide, under guidelines specified  
25 by the parole authority, the conditions of parole and the  
26 length of parole up to the maximum period of time  
27 provided by law. The inmate has the right to  
28 reconsideration of the length of parole and conditions  
29 thereof by the parole authority. The Department of  
30 Corrections or the Board of Prison Terms may impose as  
31 a condition of parole that a prisoner make payments on  
32 the prisoner's outstanding restitution fines or orders  
33 imposed pursuant to subdivision (a) or (c) of Section  
34 13967 of the Government Code, as operative prior to  
35 September 28, 1994, or subdivision (b) or (f) of Section  
36 1202.4.

37 (6) For purposes of this chapter, the Board of Prison  
38 Terms shall be considered the parole authority.

39 (7) The sole authority to issue warrants for the return  
40 to actual custody of any state prisoner released on parole

1 rests with the Board of Prison Terms, except for any  
2 escaped state prisoner or any state prisoner released prior  
3 to his or her scheduled release date who should be  
4 returned to custody, and Section 3060 shall apply.

5 SEC. 4. Section 6600 of the Welfare and Institutions  
6 Code is amended to read:

7 6600. As used in this article, the following terms have  
8 the following meanings:

9 (a) “Sexually violent predator” means a person who  
10 has been convicted of a sexually violent offense against  
11 two or more victims for which he or she received a  
12 determinate sentence and who has a diagnosed mental  
13 disorder that makes the person a danger to the health and  
14 safety of others in that it is likely that he or she will engage  
15 in sexually violent criminal behavior.

16 For purposes of this subdivision, a prior finding of not  
17 guilty by reason of insanity for an offense described in  
18 subdivision (b), a conviction prior to July 1, 1977, for an  
19 offense described in subdivision (b), a conviction  
20 resulting in a finding that the person was a mentally  
21 disordered sex offender, or a conviction in another state  
22 for an offense that includes all the elements of an offense  
23 described in subdivision (b), shall also be deemed to be  
24 a sexually violent offense even if the offender did not  
25 receive a determinate sentence for that prior offense.

26 Conviction of one or more of the crimes enumerated in  
27 this section shall constitute evidence that may support a  
28 court or jury determination that a person is a sexually  
29 violent predator, but shall not be the sole basis for the  
30 determination. The existence of any prior convictions  
31 may be shown with documentary evidence. The details  
32 underlying the commission of an offense that led to a  
33 prior conviction, including a predatory relationship with  
34 the victim, may be shown by documentary evidence,  
35 including, but not limited to, preliminary hearing  
36 transcripts, trial transcripts, probation and sentencing  
37 reports, and evaluations by the State Department of  
38 Mental Health. Jurors shall be admonished that they may  
39 not find a person a sexually violent predator based on  
40 prior offenses absent relevant evidence of a currently



1 diagnosed mental disorder that makes the person a  
2 danger to the health and safety of others in that it is likely  
3 that he or she will engage in sexually violent criminal  
4 behavior.

5 (b) “Sexually violent offense” means the following  
6 acts when committed by force, violence, duress, menace,  
7 or fear of immediate and unlawful bodily injury on the  
8 victim or another person, and that are committed on,  
9 before, or after the effective date of this article and result  
10 in a conviction or a finding of not guilty by reason of  
11 insanity, as provided in subdivision (a): a felony violation  
12 of paragraph (2) of subdivision (a) of Section 261,  
13 paragraph (1) of subdivision (a) of Section 262, Section  
14 264.1, subdivision (a) or (b) of Section 288, or subdivision  
15 (a) of Section 289 of the Penal Code, or sodomy or oral  
16 copulation in violation of Section 286 or 288a of the Penal  
17 Code.

18 (c) “Diagnosed mental disorder” includes a  
19 congenital or acquired condition affecting the emotional  
20 or volitional capacity that predisposes the person to the  
21 commission of criminal sexual acts in a degree  
22 constituting the person a menace to the health and safety  
23 of others.

24 (d) “Danger to the health and safety of others” does  
25 not require proof of a recent overt act while the offender  
26 is in custody.

27 (e) “Predatory” means an act is directed toward a  
28 stranger, a person of casual acquaintance with whom no  
29 substantial relationship exists, or an individual with whom  
30 a relationship has been established or promoted for the  
31 primary purpose of victimization.

32 (f) “Recent overt act” means any criminal act that  
33 manifests a likelihood that the actor may engage in  
34 sexually violent predatory criminal behavior.

35 SEC. 5. Section 6601 of the Welfare and Institutions  
36 Code, as amended by Chapter 4 of the Statutes of 1996, is  
37 amended to read:

38 6601. (a) Whenever the Director of Corrections  
39 determines that an individual who is in custody under the  
40 jurisdiction of the Department of Corrections, and who

1 is either serving a determinate prison sentence or whose  
2 parole has been revoked, may be a sexually violent  
3 predator, the director shall, at least six months prior to  
4 that individual's scheduled date for release from prison,  
5 refer the person for evaluation in accordance with this  
6 section. However, if the inmate was received by the  
7 department with less than nine months of his or her  
8 sentence to serve, or if the inmate's release date is  
9 modified by judicial or administrative action, the director  
10 may refer the person for evaluation in accordance with  
11 this section at a date that is less than six months prior to  
12 the inmate's scheduled release date.

13 (b) The person shall be screened by the Department  
14 of Corrections and the Board of Prison Terms based on  
15 whether the person has committed a sexually violent  
16 predatory offense and on a review of the person's social,  
17 criminal, and institutional history. This screening shall be  
18 conducted in accordance with a structured screening  
19 instrument developed and updated by the State  
20 Department of Mental Health in consultation with the  
21 Department of Corrections. If as a result of this screening  
22 it is determined that the person is likely to be a sexually  
23 violent predator, the Department of Corrections shall  
24 refer the person to the State Department of Mental  
25 Health for a full evaluation of whether the person meets  
26 the criteria in Section 6600.

27 (c) The State Department of Mental Health shall  
28 evaluate the person in accordance with a standardized  
29 assessment protocol, developed and updated by the State  
30 Department of Mental Health, to determine whether the  
31 person is a sexually violent predator as defined in this  
32 article. The standardized assessment protocol shall  
33 require assessment of diagnosable mental disorders, as  
34 well as various factors known to be associated with the  
35 risk of reoffense among sex offenders. Risk factors to be  
36 considered shall include criminal and psychosexual  
37 history, type, degree, and duration of sexual deviance,  
38 and severity of mental disorder.

39 (d) Pursuant to subdivision (c), the person shall be  
40 evaluated by two practicing psychiatrists or



1 psychologists, or one practicing psychiatrist and one  
2 practicing psychologist, designated by the Director of  
3 Mental Health. If both evaluators concur that the person  
4 has a diagnosed mental disorder such that he or she is  
5 likely to engage in acts of sexual violence without  
6 appropriate treatment and custody, the Director of  
7 Mental Health shall forward a request for a petition for  
8 commitment under Section 6602 to the county  
9 designated in subdivision (i). Copies of the evaluation  
10 reports and any other supporting documents shall be  
11 made available to the attorney designated by the county  
12 pursuant to subdivision (i) who may file a petition for  
13 commitment.

14 (e) If one of the professionals performing the  
15 evaluation pursuant to subdivision (d) does not concur  
16 that the person meets the criteria specified in subdivision  
17 (d), but the other professional concludes that the person  
18 meets those criteria, the Director of Mental Health shall  
19 arrange for further examination of the person by two  
20 independent professionals selected in accordance with  
21 subdivision (g).

22 (f) If an examination by independent professionals  
23 pursuant to subdivision (e) is conducted, a petition to  
24 request commitment under this article shall only be filed  
25 if both independent professionals who evaluate the  
26 person pursuant to subdivision (e) concur that the person  
27 meets the criteria for commitment specified in  
28 subdivision (d). The professionals selected to evaluate  
29 the person pursuant to subdivision (g) shall inform the  
30 person that the purpose of their examination is not  
31 treatment but to determine if the person meets certain  
32 criteria to be involuntarily committed pursuant to this  
33 article. It is not required that the person appreciate or  
34 understand that information.

35 (g) Any independent professional who is designated  
36 by the Director of Corrections or the Director of Mental  
37 Health for purposes of this section shall not be a state  
38 government employee, shall have at least five years of  
39 experience in the diagnosis and treatment of mental  
40 disorders, and shall include psychiatrists and licensed

1 psychologists who have a doctoral degree in psychology.  
2 The requirements set forth in this section also shall apply  
3 to any professionals appointed by the court to evaluate  
4 the person for purposes of any other proceedings under  
5 this article.

6 (h) If the State Department of Mental Health  
7 determines that the person is a sexually violent predator  
8 as defined in this article, the Director of Mental Health  
9 shall forward a request for a petition to be filed for  
10 commitment under this article to the county designated  
11 in subdivision (i). Copies of the evaluation reports and  
12 any other supporting documents shall be made available  
13 to the attorney designated by the county pursuant to  
14 subdivision (i) who may file a petition for commitment  
15 in the superior court.

16 (i) If the county's designated counsel concurs with the  
17 recommendation, a petition for commitment shall be  
18 filed in the superior court of the county in which the  
19 person was convicted of the offense for which he or she  
20 was committed to the jurisdiction of the Department of  
21 Corrections. The petition shall be filed, and the  
22 proceedings shall be handled, by either the district  
23 attorney or the county counsel of that county. The county  
24 board of supervisors shall designate either the district  
25 attorney or the county counsel to assume responsibility  
26 for proceedings under this article.

27 (j) The time limits set forth in this section shall not  
28 apply during the first year that this article is operative.

29 (k) If the person is otherwise subject to parole, a  
30 finding or placement made pursuant to this article shall  
31 not toll, discharge, or otherwise affect the term of parole  
32 pursuant to Article 1 (commencing with Section 3000) of  
33 Chapter 8 of Title 1 of Part 3 of the Penal Code.

34 SEC. 6. Section 6601.5 of the Welfare and Institutions  
35 Code, as added by Chapter 4 of the Statutes of 1996, is  
36 amended to read:

37 6601.5. (a) In cases where an inmate's parole or  
38 temporary parole hold pursuant to Section 6601.3 will  
39 expire before a probable cause hearing is conducted  
40 pursuant to Section 6602, the agency bringing the petition



1 may request an urgency review pursuant to this section.  
 2 Upon that request, a judge of the superior court shall  
 3 review the petition and determine whether the petition  
 4 states or contains sufficient facts that, if true, would  
 5 constitute probable cause to believe that the individual  
 6 named in the petition is likely to engage in sexually  
 7 violent predatory criminal behavior upon his or her  
 8 release. If the judge determines that the petition, on its  
 9 face, supports a finding of probable cause, the judge shall  
 10 order that the person be detained in a secure facility until  
 11 a hearing can be held pursuant to Section 6602. The  
 12 probable cause hearing provided for in Section 6602 shall  
 13 be held within 10 calendar days of the date of the order  
 14 issued by the judge pursuant to this section.

15 (b) This section shall remain in effect only until  
 16 January 1, 1998, and as of that date is repealed.

17 ~~SEC. 7. Section 6602 of the Welfare and Institutions~~  
 18 ~~Code, as amended by Chapter 4 of the Statutes of 1996, is~~  
 19 ~~amended to read:~~

20 ~~6602. A judge of the superior court shall review the~~  
 21 ~~petition and shall determine whether there is probable~~  
 22 ~~cause to believe that the individual named in the petition~~  
 23 ~~is likely to engage in sexually violent predatory criminal~~  
 24 ~~behavior upon his or her release. The person named in~~  
 25 ~~the petition shall be entitled to assistance of counsel at the~~  
 26 ~~probable cause hearing. If the judge determines there is~~  
 27 ~~not probable cause, he or she shall dismiss the petition and~~  
 28 ~~any person subject to parole shall report to parole. If the~~  
 29 ~~judge determines that there is probable cause, the judge~~  
 30 ~~shall order that the person remain in custody in a secure~~  
 31 ~~facility until a trial is completed and shall order that a trial~~  
 32 ~~be conducted to determine whether the person is, by~~  
 33 ~~reason of a diagnosed mental disorder, a danger to the~~  
 34 ~~health and safety of others in that the person is likely to~~  
 35 ~~engage in acts of sexual violence upon his or her release~~  
 36 ~~from the jurisdiction of the Department of Corrections or~~  
 37 ~~other secure facility.~~

38 ~~SEC. 8. Section 6604 of the Welfare and Institutions~~  
 39 ~~Code is amended to read:~~

1     ~~6604. The court or jury shall determine whether,~~  
2 ~~beyond a reasonable doubt, the person is a sexually~~  
3 ~~violent predator. If the court or jury is not satisfied~~  
4 ~~beyond a reasonable doubt that the person is a sexually~~  
5 ~~violent predator, the court shall direct that the person be~~  
6 ~~released at the conclusion of the term for which he or she~~  
7 ~~was initially sentenced, or that the person be~~  
8 ~~unconditionally released at the end of parole, whichever~~  
9 ~~is applicable. If the court or jury determines that the~~  
10 ~~person is a sexually violent predator, the person shall be~~  
11 ~~committed for two years to the custody of the State~~  
12 ~~Department of Mental Health for appropriate treatment~~  
13 ~~and confinement in a secure facility designated by the~~  
14 ~~Director of Mental Health, and the person shall not be~~  
15 ~~kept in actual custody longer than two years unless a~~  
16 ~~subsequent extended commitment is obtained from the~~  
17 ~~court incident to the filing of a new petition for~~  
18 ~~commitment under this article or unless the term of~~  
19 ~~commitment changes pursuant to subdivision (c) of~~  
20 ~~Section 6605.~~

21     ~~Time spent on conditional release shall not count~~  
22 ~~toward the two-year term of commitment, unless the~~  
23 ~~person is placed in a locked facility by the conditional~~  
24 ~~release program, in which case the time in a locked~~  
25 ~~facility shall count toward the two-year term of~~  
26 ~~commitment.~~

27     ~~To protect the safety of other patients being treated in~~  
28 ~~the facility, a person committed under this article to a~~  
29 ~~secure facility under the jurisdiction of the State~~  
30 ~~Department of Mental Health shall not have~~  
31 ~~unsupervised contact with persons receiving treatment~~  
32 ~~pursuant to the Lanterman-Petris-Short Act (Part 1~~  
33 ~~(commencing with Section 5000) of Division 5) as gravely~~  
34 ~~disabled, as defined in subparagraph (A) of paragraph~~  
35 ~~(1) of subdivision (h) of Section 5008.~~

36     ~~SEC. 9.~~

37     ~~SEC. 7. Section 6609 is added to the Welfare and~~  
38 ~~Institutions Code, to read:~~

39     ~~6609. Within 10 days of a request made by the chief of~~  
40 ~~police of a city or the sheriff of a county, the State~~

1 Department of Mental Health shall provide the following  
2 information concerning each person committed as a  
3 sexually violent predator who is receiving outpatient care  
4 in a conditional release program in that city or county:  
5 name, address, date of commitment, county from which  
6 committed, date of placement in the conditional release  
7 program, fingerprints, and a glossy photograph no  
8 smaller than  $3\frac{1}{8} \times 3\frac{1}{8}$  inches in size, or clear copies of  
9 the fingerprints and photograph.

10 ~~SEC. 10.~~

11 *SEC. 8.* Section 6609.1 is added to the Welfare and  
12 Institutions Code, to read:

13 6609.1. (a) When any person committed as a sexually  
14 violent predator is going to be unconditionally released,  
15 the State Department of Mental Health shall notify the  
16 sheriff or chief of police, or both, and the district attorney,  
17 who has jurisdiction over the community in which the  
18 person is scheduled to be released. Except as provided in  
19 subdivision (b), the notice shall be given at least 15 days  
20 prior to the scheduled release date and shall include the  
21 name of the person who is scheduled to be released,  
22 whether or not the person is required to register with law  
23 enforcement, and the community in which the person  
24 will reside.

25 (b) When a person committed as a sexually violent  
26 predator is scheduled to be released to a county other  
27 than the county from which he or she was committed, the  
28 State Department of Mental Health shall provide written  
29 notice of that release to the sheriff or police chief, or both,  
30 and to the district attorney, who has jurisdiction over the  
31 community in which the inmate is scheduled to be  
32 released. The notice shall be made at least 45 days prior  
33 to the scheduled release date and shall include the name  
34 of the person who is scheduled to be released, whether or  
35 not the person is required to register with local law  
36 enforcement, and the community in which the person  
37 will reside.

38 Those agencies receiving the notice referred to in this  
39 subdivision shall have 15 days from receipt of the notice  
40 to provide written comment to the department

1 regarding the impending release. Those comments shall  
2 be considered by the department, which may modify its  
3 decision regarding the community in which the person is  
4 scheduled to be released, based on those comments.

5 (c) If the court orders the immediate release of a  
6 sexually violent predator, the department shall notify the  
7 sheriff or chief of police, or both, and the district attorney,  
8 who has jurisdiction over the community in which the  
9 person is scheduled to be released at the time of release.

10 (d) The notice required by this section shall be made  
11 whether or not a request has been made pursuant to  
12 Section 6609.

13 (e) The time limits imposed by this section are not  
14 applicable where the release date of a sexually violent  
15 predator has been advanced by a judicial or  
16 administrative process or procedure that could not have  
17 reasonably been anticipated by the State Department of  
18 Mental Health and where, as the result of the time  
19 adjustments, there is less than 30 days remaining on the  
20 commitment before the inmate's release, but notice shall  
21 be given as soon as practicable. In no case shall notice  
22 required by this section to the appropriate agency be  
23 later than the day of release. If, after the 45-day notice is  
24 given to law enforcement and to the district attorney  
25 relating to an out-of-county placement, there is change of  
26 county placement, notice to the ultimate county of  
27 placement shall be made upon the determination of the  
28 county of placement.

29 ~~SEC. 11.~~

30 *SEC. 9.* Section 6609.2 is added to the Welfare and  
31 Institutions Code, to read:

32 6609.2. (a) When any sheriff or chief of police is  
33 notified of the pending release of a person committed as  
34 a sexually violent predator, that sheriff or chief of police  
35 may notify any person designated by the sheriff or chief  
36 of police as an appropriate recipient of the notice.

37 (b) A law enforcement official authorized to provide  
38 notice pursuant to this section, and the public agency or  
39 entity employing the law enforcement official, shall not



1 be liable for providing or failing to provide notice  
2 pursuant to this section.

3 ~~SEC. 12.~~

4 *SEC. 10.* Section 6609.3 is added to the Welfare and  
5 Institutions Code, to read:

6 6609.3. At the time a notice is sent pursuant to  
7 subdivision (a) of Section 6609.1, the sheriff, chief of  
8 police, or district attorney notified of the release shall also  
9 send a notice to persons described in Section 679.03 of the  
10 Penal Code who have requested a notice, informing those  
11 persons of the fact that the person who committed the  
12 sexually violent offense is scheduled to be released and  
13 specifying the proposed date of release. Notice of the  
14 community in which the person is scheduled to reside  
15 shall also be given only if it is (1) in the county of  
16 residence of a witness, victim, or family member of a  
17 victim who has requested notice, or (2) within 25 miles  
18 of the actual residence of a witness, victim, or family  
19 member of a victim who has requested notice. If, after  
20 providing the witness, victim, or next of kin with the  
21 notice, there is any change in the release date or the  
22 community in which the person is to reside, the board  
23 shall provide the witness, victim, or next of kin with the  
24 revised information.

25 In order to be entitled to receive the notice set forth in  
26 this section, the requesting party shall keep the sheriff,  
27 chief of police, and district attorney who were notified  
28 under Section 679.03 of the Penal Code, informed of his  
29 or her current mailing address.

30 ~~SEC. 13.~~

31 *SEC. 11.* Notwithstanding Section 17610 of the  
32 Government Code, if the Commission on State Mandates  
33 determines that this act contains costs mandated by the  
34 state, reimbursement to local agencies and school  
35 districts for those costs shall be made pursuant to Part 7  
36 (commencing with Section 17500) of Division 4 of Title  
37 2 of the Government Code. If the statewide cost of the  
38 claim for reimbursement does not exceed one million  
39 dollars (\$1,000,000), reimbursement shall be made from  
40 the State Mandates Claims Fund.

1 Notwithstanding Section 17580 of the Government  
2 Code, unless otherwise specified, the provisions of this act  
3 shall become operative on the same date that the act  
4 takes effect pursuant to the California Constitution.

5 ~~SEC. 14.~~

6 *SEC. 12.* This act is an urgency statute necessary for  
7 the immediate preservation of the public peace, health,  
8 or safety within the meaning of Article IV of the  
9 Constitution and shall go into immediate effect. The facts  
10 constituting the necessity are:

11 In order to provide immediate protection to the public  
12 from persons who may be sexually violent predators and  
13 may be subject to commitment in the near future, it is  
14 necessary that this act take effect immediately.

